

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Council members

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/(954) 797-1101  
Prepared by: Marcie Nolan, Deputy Planning and Zoning Manager

**SUBJECT:** Ordinance of the Town of Davie providing for citizen participation as a requirement for certain development applications.

**AFFECTED DISTRICT:** Townwide

**TITLE OF AGENDA ITEM:**

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA ADOPTING RULES AND REGULATIONS TO FOSTER CITIZEN PARTICIPATION IN THE PROCESSING OF DEVELOPMENT APPLICATIONS WITHIN THE TOWN; AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, BY CREATING DIVISION 7, ENTITLED "PUBLIC PARTICIPATION"; PROVIDING FOR GUIDELINES AND REQUIREMENTS FOR THE CITIZEN PARTICIPATION PLAN AND REPORT; AMENDING SECTION 12-302 ENTITLED "APPLICATIONS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE LAND USE PLAN APPLICATION; AMENDING SECTION 12-306 ENTITLED "PROCESSING"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF REZONING AND SPECIAL PERMIT APPLICATIONS; AMENDING SECTION 12-372 ENTITLED "SITE PLAN SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE SITE PLAN APPLICATION; AMENDING ARTICLE 12-379, ENTITLED "MASTER PLANNED DEVELOPMENT SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE MASTER PLANNED DEVELOPMENT; AMENDING SECTION 12-503 ENTITLED "DEFINITIONS"; PROVIDING FOR DEFINITIONS UTILIZED IN THE PUBLIC PARTICIPATION PROCESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The ordinance and following memo represent the Town's recent initiative to strengthen public involvement throughout the planning process. The Town Council directed the Town Attorney's office and staff to research the benefits of requiring a formal element of citizen participation during the planning process. A draft outline of the major elements of the public participation process was presented to Town Council. This ordinance is the result of the research, as presented to Town Council.

## **Background**

The ability to encourage the public to participate in a constructive and consistent manner has always been an issue faced by most local governments. The Florida State Statutes provides for a required public participation process for all land use decisions including quasi-judicial items. However, administrative approvals are not required to adhere to the public participation process.

The Town of Davie has long prided itself on encouraging public participation for all land development applications, including site plans.

The goals of the proposed public participation process are:

1. Ensure that affected residents are aware of projects within their neighborhood;
2. Ensure that comments and feedback occur early enough in the process to allow for effective modification to a filed application;
3. Provide for set guidelines for the development community to adhere to when filing an application.

The public participation plan has two (2) main requirements, the citizen participation plan and the citizen participation report. The reports differ in their purpose, but the final product is one that requires applicants to meet with affected parties prior to any application being heard by an appointed or elected body.

Applications that will be required to adhere to the public participation plan include the following:

- Master Development Plan
- Site plan
- Special permit
- Rezoning
- Land use plan amendment

The above items typically represent either an increase in intensity or density from existing conditions or a change in use from the current site.

## **PLAN REQUIREMENTS**

The Citizen Participation Plan is an initial plan (framework for action) and final report.

The initial plan provides the following:

- Overall definition of the project
- The applicant's contacts for the project
- Information regarding the pre-application meeting
- An action plan that describes and defines the actions that will be taken to provide opportunities to members of the community that will allow them to understand and address possible impacts
- A tentative schedule of meeting dates.

The final report details the outcome and completion of all actions identified in the initial plan.

### **Step 1: Citizen Participation Plan**

All citizen participation plans will include the following:

- a) List of residents and/or property owners, interested parties, and public agencies that may be affected by the application (affected parties). The names and addresses of residents and property owners within the public hearing notice area, as set forth in the Davie Code of Ordinances, shall be provided to Applicant by an appropriate planning representative. The planning representative shall also provide the Applicant with all names of any other interested parties and/or public agencies who have stated an interest in the application.
- b) Summary of how the Applicant proposes that it will notify all “affected parties” of the application.
- c) Summary of the proposed application.
- d) Description of the manner in which the Applicant proposes that it will disseminate information to residents, property owners and/or interested parties.
- e) Schedule of events planned by the Applicant to complete the citizen – participation procedure. Applicant shall be required to conduct a minimum of two (2) public meetings with “affected parties”.
- f) Requirement that the Applicant shall keep the Development Services Department informed of the status of its citizen participation efforts by coordination of its efforts through the project planner.

This plan is to be implemented seven (7) days prior to any Development Review Committee (DRC) meeting.

### **Step 2: Citizen Participation Report**

The Citizen Participation Report will include the following:

- a) Written summary of the results of the citizen participation effort prior to the first public meeting in which the application is heard.
- b) Dates and location of all meetings where citizens were invited to discuss the Applicant’s proposal.
- c) Names, dates, addresses, and number of people that participated in the process.

- d) Written summary of the issues and/or concerns raised by residents and how the Applicant resolve these issues and/or concerns. If the Applicant was unable or unwilling to resolve the issues, the summary should state the reason why these issues cannot be resolved.
- e) The report shall be reviewed by the planning and zoning staff to determine whether the Applicant has completed the citizen participation process prior to its transmittal by staff to either the Site Plan Committee, Planning and Zoning Board, or Local Planning Agency.

This report will be reviewed by staff to ensure that all requirements of the Public Participation Plan have been met prior to any application being transmitted to the Site Plan Committee, Planning and Zoning Board or Local Planning Agency and/or Town Council.

### **Exemptions**

The ordinance does provide for thresholds or benchmarks for small infill development when the burden may preclude a small property owner from redeveloping the site.

These thresholds include the following:

#### **Rezoning:**

- Decrease in density from what is already existing on the zoning map and
- Parcel under one acre and
- Parcel that has had no previous planning applications filed in the last twelve (12) months.

#### **Master Development Plan/Site Plan:**

- Parcel surrounding by existing residential where the zoning and land use are consistent and
  - Parcel that has had no previous planning applications in the last twelve (12) months.
- or
- Commercial parcel under one acre in size that is completely surrounded by other commercial uses.

A road shall not be considered a separating barrier for the implementation of these requirements.

### **Conclusion**

The Town of Davie is one of the first municipalities to require this level of required citizen involvement throughout the planning process. The Town is aware of the time and energy residents throughout the Town place on knowing new projects in the Town. This process will ensure that the public will have the opportunity to work with new development prior to the public hearing process. These steps will result in more certainty for a developer and a formal involvement process for citizens.

**PREVIOUS ACTIONS:** N/A

**CONCURRENCES:** At the August 11, 2004 Local Planning Agency meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to approve subject to the grammatical and typographical modifications. Motion carried 5-0

**FISCAL IMPACT:** N/A

**RECOMMENDATION(S):** Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration.

**Attachment(s):** Ordinance

ORDINANCE NO:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA ADOPTING RULES AND REGULATIONS TO FOSTER CITIZEN PARTICIPATION IN THE PROCESSING OF DEVELOPMENT APPLICATIONS WITHIN THE TOWN; AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, BY CREATING DIVISION 7, ENTITLED "PUBLIC PARTICIPATION"; PROVIDING FOR GUIDELINES AND REQUIREMENTS FOR THE CITIZEN PARTICIPATION PLAN AND REPORT; AMENDING SECTION 12-302 ENTITLED "APPLICATIONS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE LAND USE PLAN APPLICATION; AMENDING SECTION 12-306 ENTITLED "PROCESSING"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF REZONING AND SPECIAL PERMIT APPLICATIONS; AMENDING SECTION 12-372 ENTITLED "SITE PLAN SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE SITE PLAN APPLICATION; AMENDING ARTICLE 12-379, ENTITLED "MASTER PLANNED DEVELOPMENT SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE MASTER PLANNED DEVELOPMENT; AMENDING SECTION 12-503 ENTITLED "DEFINITIONS"; PROVIDING FOR DEFINITIONS UTILIZED IN THE PUBLIC PARTICIPATION PROCESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the "Home Rule Powers" granted to the Town pursuant to Chapter 166, Florida Statutes authorize the Town to enact such policies and procedures related to the enhancement of the welfare and benefits derived by the Town's citizens; and

WHEREAS, the ability of citizens of the Town of Davie to actively participate in the Town's development procedures will allow the Town's citizens to play an essential role in shaping the direction of the Town's development, thereby enhancing the welfare of the community; and

WHEREAS, the Legislature of the State of Florida has encouraged public participation within the municipal land development process by enacting Rule 9J-5.004 of the Florida Administrative Code and through the adoption of Section 163.3181, Florida Statutes relating to public participation requirements in the local comprehensive plan process; and

WHEREAS, it is the opinion of the Town Council of the Town of Davie that creating citizen participation procedures within the Town's development review process will harmonize the necessity of sustainable development within the Town with the valid concerns and advisement of the Town's citizens.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That Article X of The Town Code is amended to read as follows:

Division 7. Public Participation

Section 12-319.5 Purpose and Intent

The public participation plan process provides for the ability of citizens of the Town of Davie to actively participate in the Town's development procedures will allow the Town's citizens to play an essential role in shaping the direction of the Town's development, thereby enhancing the welfare of the community; and

Section 12-319.6 Application and Requirements

All Applicants submitting applications to the Town for approval of a site plan, grant of a special permit, rezoning or land use plan amendment shall prepare and execute a plan for citizen participation. Citizen participation plans shall be submitted to the Town's Development Service Department and approved by the planning and zoning manager or an appropriate designee prior to its execution by the Applicant. The Applicant shall thereafter implement the citizen participation plan at least (7) seven days prior to the Development Review Committee's review of the application and shall submit to the Development Services Department a written report setting forth the results of the citizen participation plan procedures at least ten (10) days prior to the first public meeting on the item.

Section 12-319.7 Requirements

(A) Citizen Participation Plan

All citizen participation plans shall include:

- (1) A list of residents and/or property owners, interested parties, and public agencies that may be affected by the application (affected parties). The names and addresses of residents and property owners within the public hear notice area, as set forth in the Davie Code of Ordinances, shall be provided to Applicant by an

appropriate planning representative. The planning representative shall also provide the Applicant with all names of any other interested parties and/or public agencies who have stated an interest in the application.

(2) A summary of how the Applicant proposes that it will notify all "affected parties" of the application.

(3) A summary of the proposed application.

(4) A description in the manner in which the Applicant proposes that it will disseminate information to residents, property owners and/or interested parties.

(5) A schedule of events planned by the Applicant to complete the citizen - participation procedure. Applicant shall be required to conduct a minimum of two (2) public meetings with "affected parties". This requirement may be waived if a letter from an adjacent affected party states that all their items have been addressed and there is no need for another meeting with the applicant.

(6) A requirement that the Applicant shall keep the Development Services Department informed of the status of its citizen participation efforts by coordination its efforts through the assigned project planner.

#### Section 12-319.8.

##### (A) Citizen Participation Report

All citizen participation reports shall include:

(1) A written summary of the results of the citizen participation effort prior to the first public meeting in which the application is heard.

(2) Dates and location of all meetings where citizens were invited to discuss the Applicant's proposal.

(3) The names, dates, addresses, and number of people that participated in the process.

(4) A Written summary of the issues and/or concerns raised by residents and how the Applicant proposes to resolve these issues and/or concerns. If the Applicant is unable or unwilling to resolve the issues, the summary should state the reason why these issues cannot be resolved.



(5) The report shall be reviewed by the planning and zoning staff to determine whether the Applicant has completed the citizen participation process prior to its transmittal by staff to either the site plan committee, planning and zoning board, or local planning agency.

#### Section 12-319.9      Applicability

The results of Applicant's citizen participation plan shall not be determinative in itself of whether the application shall be approved or denied by the Town Council. The Applicant's citizen participation report shall be included within the item's background material packet and any issues raised by interested parties within the report, pertinent to any provision of the Town Code of Ordinance which may affect the Town Council's determination of the application may be taken into consideration by the Town Council as part of its deliberations. The submitted Citizen Participation Plan shall be considered as one more piece of information to assist Town Council in their decision making.

#### Section 12-319.10.    Exemptions

The following exemptions represent thresholds or benchmarks for small infill development when the burden may preclude a small property owner from redeveloping the site. These thresholds include the following:

##### Rezoning:

a decrease in density from what is already existing on the zoning map; and  
a parcel is one acre to less; and  
a parcel that has had no previous planning applications filed in the last twelve months.

##### Master Development Plan/Site Plan:

a parcel surrounding by existing residential where the zoning and land use are consistent and  
a parcel that has had no previous planning applications in the last twelve months.

##### Or

A commercial parcel under one acre in size that is completely surrounded by other commercial uses.

A road shall not be considered a barrier for the implementation of these requirements.

SECTION 2. That Section 12-503, Definitions, of the Town Code is amended to read as follows:

## 12-503 Definitions.

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Affected Parties: The term Affected Parties, as it pertains to the Citizen Participation Procedures, shall include property owners and residents within the public hearing notice area for each application, homeowner's association presidents for each HOA within the public hearing notice area and business owners whose businesses are within the public hearing notice area.

Applicant: Applicant, as it pertains to the Citizen Participation Procedures, shall mean all individuals or entities submitting an application to the Town for the approval of a master site plan, site plan, land use plan amendment, rezoning, or special permit.

SECTION 3: That Section 12-302 (B) of the Town of Davie Land Development Code shall be amended to state:

(B) All Applications for land use plan amendment shall include the following:

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8) A completed citizen participation plan.

9) A completed citizen participation plan report.

SECTION 4: That Section 12-306 (C) of the Town of Davie Land Development Code shall be amended to state:

(C) Application Requirements: All applications shall include the following:

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12) For special permits and rezoning applications, a completed citizen participation plan.

13) For Special permits and rezoning applications, a completed citizen participation report.

SECTION 5. That Section 12-372 (C) (3) of the Davie Town Code shall be amended to state:

A) An application for site plan review shall be filed with the development services department. The application shall be signed by the current owner or owners of the property to be developed and the name, signature, address, and telephone number of the developer's or owner's representative who shall be contacted with regard to processing of the application for site plan approval. All signatures are to be notarized. The application shall also include a completed citizen participation plan and a citizen participation report.

SECTION 6. That Section 12-379 (A) of the Davie Town Code shall be amended to state:

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(17) The application shall also include a completed citizen participation plan and a citizen participation report.

SECTION 7. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 8. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 9. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2004

PASSED ON THIS SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2004

ATTEST:

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004.

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